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Federal Communications Commission
Office of the Secretary

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Marlene Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
12th Street Lobby, Room TW-A325
Washington, D.C. 20554

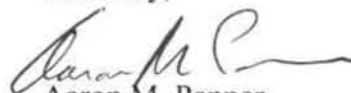
Re: *Toll Free Service Access Codes*, CC Docket No. 95-155

Dear Ms. Dortch:

On April 5, 2011, Joan O'Donnell and Maureen Callan of CenturyLink, Melanie Bostwick of my law firm, and I met with Ann Stevens, Jodie May, Michelle Sclater, and Heather Hendrickson of the Commission. The purpose of the meeting was to describe a proposed procedural mechanism for the transfer of responsibility for the SMS/800 Functions Tariff from the BOCs to SMS/800, Inc. The attached document reflects the substance of the proposal.

One original and two copies of this letter are being submitted to you in compliance with 47 C.F.R. § 1.1206(a)(2) to be included in the record of these proceedings. If you have any questions concerning this matter, please contact me at (202) 326-7921.

Sincerely,


Aaron M. Panner

Enclosures

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List A B C D E

Transition Proposal for SMS/800 Access

The Bell Operating Companies (“BOCs”) are seeking to transfer responsibility for the provision of 800 Service Management System (“SMS/800”) access to SMS/800, Inc.

SMS/800 access is a Title II common carrier service that must be offered under tariff. *See* 800 Data Base Access Tariffs, Order, 8 FCC Rcd 1423, 1426-27 (1993); *In the Matter of Beehive Telephone Inc. v. The Bell Operating Companies*, 12 FCC Rcd 17930, 17956 (1997); *see also* Bell Operating Companies’ Tariff for 800 Service Management System (SMS/800) Functions, Tariff F.C.C. No. 1. Pursuant to the Commission’s rulings, the BOCs have been responsible for filing that tariff since the establishment of SMS/800 in 1993. *See* 800 Data Base Access Tariffs, Order, 8 FCC Rcd at 1427; *Beehive*, 12 FCC Rcd at 17965. The BOCs currently engage SMS/800, Inc., to operate the SMS/800 database. (SMS/800, Inc., in turn, has engaged third-party providers, including database administrator DSMI. *See* Fifth Report and Order in CC Docket No. 95-155, *In the Matter of Toll Free Service Access Codes*, 15 FCC Rcd 11939 (2000)) The BOCs are the sole members of SMS/800, Inc., and representatives of the BOCs serve as the only directors of SMS/800, Inc.

The BOCs and SMS/800, Inc., are planning the transfer of responsibility for the provision of SMS/800 access from the BOCs to SMS/800, Inc. Additionally, the BOCs are seeking to reduce their governance role at SMS/800, Inc. by including broader industry representation in the SMS/800, Inc., board.

A. Transfer of Tariff Responsibility

The BOCs and SMS/800, Inc. plan to accomplish the transfer of tariffing responsibility by filing a joint transfer of control application under 47 U.S.C. § 214 and 47 C.F.R. § 63.03.

Under § 214, a telecommunications carrier must obtain a certificate of public convenience and necessity from the Commission before constructing, acquiring, operating, or engaging in transmission over lines of communications, or before discontinuing, reducing, or impairing service to a community. Under section 63.03 of the Commission's regulations, a domestic carrier seeking to transfer control of lines or authorization to operate pursuant to § 214 must obtain prior approval from the Commission. Accordingly, the BOCs and SMS/800, Inc., would apply to the Commission to transfer authorization to operate the SMS/800 access service.

Section 63.03 provides for a streamlined transfer of control process with an expedited commenting schedule; under this process, applicants may transfer control on the 31st day after the date of public notice listing the application as a streamlined application. 47 C.F.R. § 63.03(a). This streamlined process presumptively applies to certain enumerated categories of applications, including those in which "[t]he transferee is not a telecommunications provider." *Id.* § 63.03(b)(ii). Because SMS/800, Inc., the proposed transferee, is not currently a provider of telecommunications services, the application to transfer control of SMS/800 access would be eligible for the streamlined process.

B. Transfer of Governance

Once tariffing responsibility has shifted from the BOCs to SMS/800, Inc., SMS/800, Inc., would then seek to expand its governance from a structure where the BOCs are the sole members and BOC representatives the only directors, to a structure where other industry participants assume a governance role. This transition can be accomplished without further Commission action. A transfer of control application is required only when there is a change of a carrier's "ultimate ownership or control." 47 C.F.R. § 63.03(d). As described above, control of SMS/800, Inc., is currently shared between the three BOCs; no single BOC exercises control.

Thus a transfer of governance from the BOCs to other industry players -- so long as no single industry player assumes *de jure* or *de facto* control over SMS/800, Inc. -- would not constitute a transfer of control under section 63.03(d) of the Commission's rules and would not require a second transfer of control application.